

RemarksStatus of the Claims

Claims 1-9 and 23-40 are pending in the application. All claims stand rejected. By this paper, claims 1, 5, 7, 8, and 23 have been amended. Claims 2, 4, and 6 have been cancelled. New claims 41-43 have been added to provide claim coverage commensurate with the scope of the invention. Reconsideration of all pending claims herein is respectfully requested.

Claim Rejections

Claims 1-3, 8, 23-24, 26-27, 33-35, and 40 were rejected under 35 U.S.C. 102(e) as being anticipated by Kitsukawa et al. ("Kitsukawa"). Claims 4, 6-7, 9, 25, and 36-37 were rejected under 35 U.S.C. 103(a) as being unpatentable over Kitsukawa. Claims 5 and 28-32 were rejected under 35 U.S.C. 103(a) as being unpatentable over Kitsukawa and view of Voyticky et al. ("Voyticky"). Claims 38 and 39 were rejected under 35 U.S.C. 103(a) as being unpatentable over Kitsukawa in view of Zigmand et al. ("Zigmand"). These rejections are respectfully traversed.

Claim 1

Claim 1 has been amended to include various limitations of claims 2, 4, and 6 (now canceled). As amended, claim 1 recites:

presenting a broadcast segment as part of an interactive television transmission;

receiving with the broadcast segment supplemental information related to a transaction involving an item shown in the broadcast segment;

responsive to a first command received from a user input device, placing an indication of the item in a shopping cart, deferring the transaction, locally storing the supplemental information received prior to the first command, and locally storing context information relating to the transaction, the context information being separate from the supplemental information and indicating a context of the user within the transaction;

subsequently displaying the shopping cart including the indication of the item; and

in response to a user selection of the item in the shopping cart, retrieving the locally-stored supplemental information and context information, and using the supplemental information and context information to respectively resume the transaction pertaining to the item and restore the user's context within the transaction.

Kitsukawa Does Not Disclose Claimed Use of a Shopping Cart In Deferring/Resuming Transactions and Restoring a User's Context Within a Transaction

Kitsukawa includes a "stored advertisement mode" that allows a user to store advertising information to be presented at a later time. "The stored advertising information may be recalled and viewed at a time that is different from the display time of the scene in which the corresponding advertised item appears." (7:45-53). However, storing advertising information is not the same as placing an indication of an item in a shopping cart. A shopping cart is a mechanism for accumulating items that a user has indicated a desire to purchase. The user may transition to a "checkout" phase in which the items in the shopping cart may be purchased.

By contrast, when a user merely defers the presentation of an advertisement, as in Kitsukawa, no such desire to purchase has been indicated. Kitsukawa's stored advertisements are not items in a shopping cart that the user may immediately purchase by entering a checkout phase.

Kitsukawa also does not disclose subsequently displaying the shopping cart including the indication of the item (related to the transaction). Kitsukawa's "stored advertisement mode" stores advertisements not items, and does not even hint or suggest that the advertisements are stored within a shopping cart.

Furthermore, Kitsukawa does not disclose or suggest, in response to a user selection of the item in the shopping cart, retrieving the locally-stored supplemental information and context information, and using the supplemental information and context information to respectively resume the transaction pertaining to the item and restore the user's context within the transaction. Kitsukawa does not suggest retrieving his "advertisement information" in response to a user selection of an item in a shopping cart. Moreover, as explained in greater detail below, Kitsukawa does not even disclose context information. There is no need for context information in Kitsukawa because a user never "initiates" or "defers" a transaction. Hence, there is no user "context" within an ongoing transaction that needs to be restored.

The Examiner takes Official Notice of using "a shopping cart so as to organize pending transactions." However, the applicants respectfully traverse this Official Notice so far as it pertains to the claimed use of a shopping cart to manage deferred transactions in the context of a user watching a broadcast segment. Shopping carts are normally associated with Web sites, not television programs. Furthermore, the claimed invention goes well beyond the use of a shopping cart to organize pending transactions. As recited in amended claim 1, when a user selects an item in the claimed shopping cart, the system retrieves both supplemental information (for resuming the transaction) and context information (for restoring the user's context

within the transaction). The applicants respectfully submit that these teachings are not "notoriously well known in the art" and respectfully request that the Examiner provide a reference in support of this rejection.

Kitsukawa Does Not Disclose Deferring a Transaction

Kitsukawa relates to deferring the display of advertisements. At the point of deferral, no transaction exists. The user has not started the transaction, but has, on the contrary, indicated a desire to put off even looking at advertisements related to potential transactions. Thus, Kitsukawa cannot be said to defer a transaction. Indeed, Kitsukawa **teaches away** from deferring transactions by teaching a "stored advertisement mode [that] causes all of the advertising information for the associated television program to be stored." (2:62-64). If Kitsukawa is merely storing all advertisements to make them subsequently viewable by the user, how can a transaction in connection with an advertisement be said to be initiated? If the transaction has not yet been initiated, how can it be deferred?

Kitsukawa Does Not Locally Store Both Supplemental Information and Context Information

As amended, claim 1 recites storing both supplemental information (which is used for carrying out the transaction), and context information, which is "separate from the supplemental information and [indicates] a context of the user within the transaction." Supplemental information may include, for example, an ATVEF trigger, whereas the context information may include a locally-stored clip or "snapshot" of the broadcast (e.g., commercial).

BEST AVAILABLE COPY

Kitsukawa refers to "advertising information ... provided for items comprising products and services used in scenes of live and prerecorded television programs." (2:21-23). A "stored advertisement mode causes all of the advertising information for the associated television program to be stored. The stored advertising information is recalled and viewed at a time that is different from the display time of the scene in which the corresponding advertised item appears. ... The advertising information may be used to electronically order the associated item." (2:62-3:5).

However, if Kitsukawa's "advertising information" is the claimed "supplemental information," what is the claimed "context information" that is "separate from the supplemental information and [indicates] a context of the user within the transaction?" Kitsukawa does not disclose storing context information, e.g., information entered by a user in connection with a transaction (claim 27), content retrieved from websites in connection with the transaction (claim 29), a clip or snapshot of the broadcast segment relating to the transaction (claim 30), because there is no need. As explained above, no transaction has been initiated when a user of Kitsukawa has indicated a desire to enter the "stored advertisement mode." Indeed, Kitsukawa teaches away from deferring a transaction, as discussed above. Hence, there is no need for context information to restore a user's context within a transaction that has not yet been initiated.

To establish "anticipation under 35 U.S.C. 102, the reference must teach every aspect of the claimed invention either explicitly or impliedly." MPEP 706.02(a) (emphasis added). As argued above, Kitsukawa does not teach every aspect of the invention. Hence, the rejection under Section 102 should be withdrawn. Claims 3, 5,

7, 8, and 9 depend directly or indirectly from claim 1 and are also patentably distinct by virtue of that dependency.

Claim 5

As amended, claim 5 recites that that context information includes at least a portion of the broadcast segment that is streamed to the user. The Office Action admits that Kitsukawa fails to disclose the claimed streaming and cites Voyticky for this element. However, claim 1, from which claim 5 depends, recites that the claimed context information is locally stored.

However, Voyticky teaches against locally storing the video clips. As the Examiner points out in the Office Action, "Voyticky teaches providing the user with a portion of the broadcast segment *from* a server so as to provide the user with additional information regarding the product." (Emphasis added). Streaming clips from a server consumes valuable bandwidth and requires a network connection to be always available. The claimed invention locally captures clips to present to the user as recited, for example, in claims 32 and 40.

Voyticky also does not cure any of the deficiencies of claim 1. For example, Voyticky does not receive supplemental information, such as an ATVEF trigger, with a broadcast segment; nor does Voyticky locally store supplemental information received prior to a user command to defer the transaction. Instead, Voyticky merely sends a time index to a central server, the time index representing the time at which an "event" button was pressed on the remote control. Thereafter, "the server

BEST AVAILABLE COPY

determines an assortment of goods and services that were displayed on the user's television" when the button was pressed (see Abstract).

Likewise, Voyticky does not disclose storing both supplemental information and context information. At best, Voyticky discloses storing a time index indicating when the "event" button was pressed. This time index is not received with the broadcast segment as required by claim 23 and cannot, therefore, be the recited supplemental information. Voyticky does not disclose or suggest storing ATVEF triggers or URLs (as recited in new claims 24 and 25), or other mechanisms for enabling interactivity. Indeed, Voyticky appears to be presented as an alternative to such techniques.

Claim 23

Claim 23 has been amended merely to clarify and reinforce the arguments presented herein. As amended, claim 23 recites:

receiving a broadcast segment including supplemental information sufficient for conducting at least a portion of a transaction;

notifying a user that the transaction is available;

partially conducting the transaction;

in response to receiving a user command to defer the transaction:

storing the supplemental information;

storing context information relating to the transaction, the context information being separate from the supplemental information and indicating a context of the user within the transaction;

deferring the partially-conducted transaction;

receiving a user command to resume the deferred transaction;
and

retrieving the stored supplemental information and context
information; and

using the supplemental information and context information to **resume**
the deferred transaction from the point at which it was deferred and
restore the user's context within the transaction.

Kitsukawa Does Not Disclose (and Teaches Against) Partially Conducting A Transaction Deferring the Partially-Conducted Transaction

Kitsukawa states that “[i]f advertising information is not selected for display by the viewer, operation continues at step 414, at which advertising information for particular items may be stored.” Col. 7, line 41-43 (emphasis added). Thus, at the time the advertisement is stored, the user has not even watched the advertisement, let alone “partially conducted” a transaction. Indeed, the quoted passage of Kitsukawa actually *teaches away* from “partially conducting” the transaction prior to deferral, because a transaction has not yet been initiated. Kitsukawa also teaches against deferring a “partially-conducted” transaction by disclosing a “stored advertisement mode [that] causes all of the advertising information for the associated television program to be stored.” (2:62-64). If Kitsukawa is merely storing all advertisements to make them subsequently viewable by the user, how can a transaction in connection with an advertisement be said to be initiated, let alone deferred?

Kitsukawa Does Not Disclose Using Context Information (that is Separate from the Supplemental Information) to Restore a User's Context Within a Resumed Transaction

As argued above, Kitsukawa does not even disclose the claimed "context information." While Kitsukawa discloses "advertising information," this could, at best, be analogized with the recited "supplemental information." However, the context information is specifically received as being "separate from the supplemental information" and is used for "indicating a context of the user" within the transaction.

In Kitsukawa, there is no need for context information because a transaction has not yet begun. Therefore, there is no basis in Kitsukawa for using context information to restore a user's context within a transaction that has not even started. Accordingly, "each and every limitation" of claim 23 is not accounted for by Kitsukawa, and the rejection should be withdrawn. *Celeritas Techs. Inc. v. Rockwell Int'l Corp.*, 150 F.3d 1354, 1360, 47 U.S.P.Q.2d 1516, 1522 (Fed. Cir. 1998). Claims 24-39 depend directly or indirectly on claim 23 and are also patentably distinct by virtue of that dependency.

Claim 25

Claim 25 recites that "storing the supplemental information comprises storing an ATVEF trigger." The Examiner takes Official Notice of ATVEF triggers. However, the applicants respectfully point out the preceding phrase: "in response to receiving a user command to defer the transaction." Thus, according to the claimed invention, the ATVEF triggers are stored in response to receiving a user command to defer the

transaction. The applicants submit that this concept is not "notoriously well known in the art" and respectfully traverse the Official Notice.

Claim 26

Claims 26 and 34 recite **locally storing the supplemental information (or context information) within a set top box.** The Examiner cites to col. 4, lines 31-41 of Kitsukawa, as follows:

The computer system 100 further comprises a random access memory (RAM) or other dynamic storage device in main memory 104 coupled to the bus 101 for storing information and instructions to be executed by the processor 109. The computer system 100 further comprises a read only memory (ROM) 106, or other static storage device, coupled to the bus 101 for storing static information and instructions for the processor 109.

The teaching that Kitsukawa's RAM stores "information and instructions to be executed by the processor" does not in any way suggest or even hint that Kitsukawa's advertisements are stored locally. All RAM devices store information and instructions. However, not all RAM devices locally store supplemental information. Kitsukawa's "advertising information" could be stored, for example, in a remote server. Indeed, Voyticky clearly discloses a system in which information, such as a still image or a video clip, is stored in a "central server 107." (6:50-61). As argued above, Kitsukawa does not even disclose "context information." How, then, could Kitsukawa's generic reference to a RAM being used to store information be a teaching of **locally storing context information?**

Claims 28 and 29

Claim 28 recites that the step of storing context information comprises storing one or more URLs of websites accessed (past tense) in connection with the transaction. Claim 29 recites that the step of storing context information comprises storing content retrieved (past tense) from websites in connection with the transaction. Both of these claims assume that a transaction has been at least partially completed. Otherwise, no websites could have been "accessed" and no content "retrieved" in connection with the transaction.

Kitsukawa does not disclose deferring partially-completed transactions, as opposed to unwatched advertisements. The user has not even seen one of Kitsukawa's advertisements at the time it has been stored. Likewise, Voyticky does not disclose that the user has previously accessed URLs or other data in connection with a website. According to Voyticky, "[t]he central sever 107 then sends information about this assortment of products back to the home computer 106 via the Internet. This can be accomplished, for example, by sending a web page or database to the home computer 106." (6:49-55). Voyticky's "information ... about products" is not the same as "websites [previously] accessed in connection with the transaction," as recited in claim 28, or "content [previously] retrieved from websites in connection with the transaction," as recited in claim 29. Unlike the claimed invention, Voyticky's "information ... about products" has not been previously accessed or downloaded.

Claims 27

Claim 27 recites that "storing context information comprises storing information previously entered by a user in connection with the transaction." For example, a user may provide information, such as a quantity of items to purchase, a size, a color, or other information pertaining to an item within a transaction. That context information is stored and later retrieved to restore the user's context within the transaction.

The Office Action references the discussion of claim 23 for the proposition that "the use [sic, user] may enter information into storage for later retrieval." However, the applicants are able to find no such discussion with respect to claim 23 in pages 4 and 5 of the Office Action. If the Examiner is merely referring to Kitsukawa's "advertising information," that is clearly not context information "previously entered by a user in connection with the transaction," as recited in claim 27. The user does not "enter" advertising information. Rather, the advertising information is presented to the user in response to the user indicating a desire to view an advertisement.

Claim 33

Claim 33 recites that "storing context information comprises storing an indication of a current action within a set of actions of the transaction at which point the transaction is to be deferred." A transaction may include a number of actions or steps, e.g., select size, select color, checkout, provide mailing address, provide credit card, etc. In order to restore a user's context within a resumed transaction, context

information including an indication of the action or step at which the transaction was deferred is retrieved.

The Office Action states that the "stored advertisement information act[s] as an indication of a current action." However, even if this is true, it ignores all of the other limitations in the claim. Where is Kitsukawa's **set of actions**? Where does Kitsukawa disclose that the stored context information relates to an action current as of the time at which the transaction is deferred? Moreover, as argued above, a transaction cannot have begun in Kitsukawa's "stored advertisement mode" because the advertisements are simply stored for future viewing. The user has not indicated in any way a desire to initiate a transaction. How then could this non-event be referred to as a "current action" in a set of actions within a transaction?

Claim 36

Claim 36 recites that receiving a user command to resume the deferred transaction comprises (1) displaying a list of deferred transactions and (2) receiving a user selection of a deferred transaction to resume. Claim 37 recites displaying with the list of deferred transactions a list of previously-completed transactions and a list of cancelled transactions.

As argued above, an advertisement that is stored before it is ever seen by the user cannot properly be referred to as a "deferred transaction." If a transaction is to be "deferred," it logically must have been initiated. However, Kitsukawa states that "[i]f advertising information is not selected for display by the viewer, operation continues at step 414, at which advertising information for particular items may be

stored." Col. 7, line 41-43 (emphasis added). Thus, at the time the advertisement is stored, the user has not even watched the advertisement, let alone initiated a transaction in connection therewith.

The Examiner takes Official Notice of using a list of deferred transactions and maintaining a history of the transactions. However, the applicants respectfully submit that providing list of deferred transactions, completed transactions, and cancelled transactions, in connection with a broadcast segment is not notoriously well known in the art. Therefore, the applicants respectfully traverse the Official Notice and request that the Examiner provide a reference in support of the rejection.

Claims 38 and 39

Claims 38 and 39 recite:

wherein displaying a list of deferred transactions comprises automatically displaying a list of deferred transactions during a commercial break.

wherein displaying a list of deferred transactions comprises automatically displaying a list of deferred transactions after the broadcast segment program being currently viewed has ended.

These claimed features allow the user to be *automatically* shown the list of deferred transactions at a more convenient time, e.g., during the next commercial break or when the current broadcast has ended, when the user can then resume the transaction without distraction. The *automatic* presentation is advantageous because the user may forget to look at the list of deferred transactions and thereby miss a purchase opportunity.

Zigmand, which is cited in the Office Action to allegedly cure the deficiencies of Kitsukawa, could not be more different from the claimed invention. The Examiner states that "Zigmand teaches automatically deferring transaction[s] and displaying information for a scheduled amount of time so as to prevent network overloads." (Emphasis added). However, Zigmand merely states that "rather than immediately attempting to send a request, an interactive television receiver unit browser waits a period of time (for example, a random period) before sending the request to the server. By backing off the sending of requests, accessing of the server can be smoothed out over time." (2:27-31).

Zigmand is deficient in at least three significant respects. First, Zigmand has absolutely nothing to do with automatically displaying information to a user at a more convenient time, let alone a list of deferred transactions. The passages referred to by the Examiner do not even mention displaying something to the user, let alone "automatically" displaying something. Similarly, the claimed invention has nothing whatever to do with preventing network overloads. The network may or may not be running at peak capacity during a commercial break or at the end of a broadcast segment. It is irrelevant to the claimed invention.

Second, Zigmand does not disclose or suggest automatically displaying a list of deferred transactions. Zigmand's "requests" relate to "requests to a single destination on the Internet." (Abstract). They do not comprise lists of deferred transactions that are displayed to the user.

Third, even if Zigmand's requests could be analogized to the claimed lists of deferred transactions, Zigmand does not send the requests in response to the same

triggering event, *i.e.*, a commercial break or the end of the current broadcast segment. In fact, Zigmand teaches away from the claimed criteria by stating that the "browser waits for a period of time (for example, a random period)." The claimed automatic display of a list of deferred transactions is anything but random.

Claim 40

Claim 40 recites:

receiving a broadcast segment including supplemental information for conducting a transaction;

receiving a command to defer the transaction;

in response to the command to defer the transaction, capturing a snapshot of at least a portion of the broadcast segment relating to the transaction;

locally storing the snapshot within a set top box;

deferring the transaction;

receiving a command to resume the deferred transaction;

retrieving the locally-stored snapshot; and

presenting the retrieved snapshot to restore a user's context in the transaction.

The Office Action is apparently equating Kitsukawa's stored "advertising information" with the claimed snapshot of the broadcast segment. However, Kitsukawa clearly distinguishes between his advertising information and the broadcast segment, itself. For example, Kitsukawa states that "advertising information is provided for items comprising products and services used in scenes of live and prerecorded television programs." (2:20-22). Kitsukawa never refers to the

live and prerecorded television programs as advertising information. Indeed, according to Kitsukawa, the "advertising information is received along with the broadcasts of the associated television programs." (2:25-27). Thus, Kitsukawa teaches away from the advertising information comprising a "snapshot."

Kitsukawa does not "capture a snapshot of at least a portion of the broadcast segment relating to the transaction," as required by claim 40, let alone "in response to a command to defer the transaction." As noted above, Kitsukawa does not teach deferring "transactions." Even if he did, the command to defer the transaction causes the capture of the snapshot. No such teaching is found in Kitsukawa.

Furthermore, Kitsukawa does not disclose or suggest locally storing the snapshot within a set top box. As argued above, Kitsukawa does not even disclose locally storing advertising information. Even if he did, Kitsukawa does not disclose locally storing a snapshot of the broadcast, itself, as opposed to "advertising information" (which is not the same as a snapshot).

Conclusion

In view of the preceding amendments and remarks, the applicant respectfully submits that all pending claims are in condition for allowance. A Notice of Allowance is respectfully requested.

Respectfully submitted,

Digeo, Inc.

By


Kory D. Christensen
Registration No. 43,548

STOEL RIVES LLP
One Utah Center Suite 1100
201 S Main Street
Salt Lake City, UT 84111-4904
Telephone: (801) 328-3131
Facsimile: (801) 578-6999

**This Page is Inserted by IFW Indexing and Scanning
Operations and is not part of the Official Record**

BEST AVAILABLE IMAGES

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images include but are not limited to the items checked:

- BLACK BORDERS**
- IMAGE CUT OFF AT TOP, BOTTOM OR SIDES**
- FADED TEXT OR DRAWING**
- BLURRED OR ILLEGIBLE TEXT OR DRAWING**
- SKEWED/SLANTED IMAGES**
- COLOR OR BLACK AND WHITE PHOTOGRAPHS**
- GRAY SCALE DOCUMENTS**
- LINES OR MARKS ON ORIGINAL DOCUMENT**
- REFERENCE(S) OR EXHIBIT(S) SUBMITTED ARE POOR QUALITY**
- OTHER:** _____

IMAGES ARE BEST AVAILABLE COPY.

As rescanning these documents will not correct the image problems checked, please do not report these problems to the IFW Image Problem Mailbox.